

July 8, 2010

Received & Inspected

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

JUL 12 2010

FCC Mail Room

Aurora Public Schools
BEN 142119
471 Application Number 695502
Funding Request Number 1910471

CC Docket No. 02-6
CC Docket No. 96-45
Request for Review

Dear Ms Dortch,

Aurora Public Schools is appealing to the Federal Communications Commission to reverse a denial of funding by the Schools & Libraries Division of the Universal Service Administrative Company for Application 471 #695502, FRN #1910471 in Funding Year 12.

Over the last two years, the Information Technology Department of Aurora Public Schools has experienced a drastic change of personnel and during the last six months key staff members who were involved with the initial E-Rate application are no longer employed by APS. We had a new Chief Information Officer who was unfamiliar with E-Rate and a new technician who was not familiar with the E-Rate process. Shortly before the Selective Review began in early June, 2009, our E-Rate technician announced his resignation. Unfortunately, he did not provide technical support and knowledge transfer during the review, and was gone by the response due date. Other personnel in the Information Technology department worked diligently to learn the program and provide the requested information before the deadline in July, 2009. The staff members who replied to the initial reviews are no longer with the district.

The task of compiling the necessary documentation to complete the funding request was left to inexperienced personnel who were performing multiple, critical job responsibilities along with attempting to sort through the complexity of the E-Rate program. Thus, these factors in the aggregate posed numerous challenges for the APS Information Technology Department. As a result, we modified the evaluation process and enlisted the assistance of a third party consulting firm to review the RFP and make a recommendation based on the RFP criteria and the information received in each bid.

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List ABCDE

Aurora Public Schools (APS) conducted a fair and compliant evaluation of all proposals received in response to RFP #2146-08 High Speed Wide Area Network (WAN) Services. The weighting scale was included in section 4.3 of the RFP. Cost was the primary factor and weighted as the highest criterion. The APS evaluation team narrowed the field down to the three highest scoring companies. The evaluation process consisted of an internal and external evaluation. During PIA, reviewers failed to ask for clarification of the evaluation process that was used and reviewers assumed that the evaluation by an external reviewer was a second tier of the evaluation process when this review was clearly used as a part of the initial evaluation process.

USAC informed us that there was a discrepancy in the evaluation matrix used by BT INS, Inc. It appears that BT INS, Inc. did not follow the weighting scale which was included in the RFP. Once this was brought to our attention, we informed BT INS, Inc. and they promptly made the change. This clerical error did not change the outcome of the evaluation. In fact, the company chosen did propose the most cost effective solution. This external evaluation was a part of the initial review; this should not be a determining factor in the denial of the application.

The goal of the competitive bidding process is to ensure that E-rate funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available.¹ The underlying policy of ensuring service providers a fair opportunity to bid on the services sought by E-rate applicants was not compromised by the competitive bidding process used. We adequately considered price, as well as other factors, in determining the most cost-effective bid.²

We respectfully appeal to you to reverse the denial of the application citing price not being the primary factor based on the information provided in this appeal. We fully complied with the FCC rule and price was considered as the primary factor and most heavily weighted, as evidenced in the attached evaluation worksheet.

Sincerely,



Susan Collins
Aurora Public Schools
sacollins@aps.k12.co.us
82 Airport Blvd
Aurora, CO 80011
(303) 326-2154 Office
(303) 326-2010 Fax

Enclosure: WAN RFP grading sheet

Enclosure: Administrator's Decision on Appeal – Funding Year 2009-2010

¹ Albert Lea Order released April 14, 2009

² Tennessee Order Released August 11, 1999

WAN RFP grading sheet

FACTOR	MAX POINTS	UNITE	TRILLION	IBM	QWEST	ZAYO	TW TELECOM	TMC COMMUNI-CATIONS
PRICE OF GOODS AND SERVICES	30	30	15 - incomplete, over budget	5 - Way over budget	18 - little over budget, cost of conduit unknown, cost of entry unknown	25 - well described, over budget, more services	20 - A little over budget, shared service	NOBID
PROJECT IMPLEMENTATION CAPABILITY	25	25	14 - ambiguous, did not provide a lot of technical details about how they will	25	25	25	25	NOBID
FEASIBILITY AND COMPLETENESS	15	14 - sounds too good to be true	5 - inadequate details provided	10 - entrance cable?	12 - One less layer of complexity than IBM, not convenient for APS	14 - same as unite	14 - same as unite	NOBID
ADMINISTRATIVE CAPABILITY	15	need to call for references	need to call references	need to call references	need to call references	need to call references	need to call references	NOBID
PROGRAM GOALS AND TIMELINES	10	10	0 - No timeline provided	0 - No timeline provided	5 - timeline provided, but experience with Qwest has shown them to be less than reliable	10	5 - Only provided 15 days for on-net sites, no overall plan or	NOBID
VENDOR LOCALITY	5	4 - Company not based in CO, only one	2 - Offices CO, managed out of TX	5	5	5	5	NOBID
								NOBID
APS WANTS INTERVIEW		YES	NO	NO	YES	YES	YES	NOBID
QUESTIONS for interview			is it dedicated?		Will you help get the conduit into our buildings	10 year pricing, reduce cost of rollout	Do we need to come up with \$4.5M up front?	NOBID

Companies to interview: UNITE, QUEST, ZAYO, TW

Members:	Jason Braddy	Greg DeVries	RD Bramlet
	Jack Mellon	Frank Walsh	

Susan Collins
Aurora Public Schools
82 Airport Blvd.
Aurora, CO 80011

Billed Entity Number: 142119
Form 471 Application Number: 695502
Form 486 Application Number:



Universal Service Administrative Company

Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2009-2010

May 14, 2010

Susan Collins
Aurora Public Schools
82 Airport Blvd.
Aurora, CO 80011

Re: Applicant Name: AURORA PUBLIC SCHOOLS
Billed Entity Number: 142119
Form 471 Application Number: 695502
Funding Request Number(s): 1910471
Your Correspondence Dated: January 05, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2009 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1910471
Decision on Appeal: **Approved, Funding Denied**
Explanation:

- USAC has determined that your appeal has brought forward persuasive information that your cancellation request be withdrawn and your application be reviewed. However, funding is denied for the reasons cited below.

During the Selective Review of Aurora Public Schools, the District was contacted and asked to provide documentation explaining the vendor selection process. The documentation provided by the District included the bid evaluation score sheet and number of bids received. Three high-score bidders (Unite, Zayo, and TW Telecom) were evaluated in the second round of the evaluation and the "Implementation Capability" category has the highest weight (35 points). It was determined that price was not the primary factor in the second round of the evaluation. USAC Selective Review sent the applicant a denial template

informing them that the FRN would be denied. In response to the issued denial template, the applicant stated that: "The Technology Decision Criteria Matrix on Page 5 indicating Implementation Capability weighted at 35 and Cost weighted at 30 was an error, cost of the services was rated as the most significant factor." USAC has determined that when the actual bid assessment was done, price was not the primary factor. An applicant submitted revised bid assessment worksheet shows price as the primary factor, however, this was done after the contract was signed and the Form 471 was filed. Program rules require that price must be the primary factor in determining the vendor selection process prior to submitting the Form 471. Therefore, the vendor selection process did not comply with the competitive bidding rules of the schools and libraries support mechanism. You did not demonstrate that price was the primary factor when Aurora Public Schools selected their service provider.

FCC rules require that applicants select the most cost-effective products and/or services offering with price being the primary factor. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. See 47 C.F.R. sec. 54.511(a); Request for Review by Ysleta Independent School District, et. al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26429, FCC 03-313 para. 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, Public Notice, 13 FCC Rcd 16570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: David Prescott